

AMENDED IN ASSEMBLY JUNE 26, 2003

AMENDED IN SENATE APRIL 22, 2003

SENATE BILL

No. 828

Introduced by Senators Figueroa, Perata, and Romero
(Coauthors: Senators Chesbro and Soto)

(Coauthors: Assembly Members Chan, Dutra, and Reyes)

February 21, 2003

An act to add Section 1252.5 to the Health and Safety Code, relating to hospitals.

LEGISLATIVE COUNSEL'S DIGEST

SB 828, as amended, Figueroa. Health facilities: boutique hospitals.

Existing law provides for the licensure and regulation of health facilities, administered by the State Department of Health Services.

Existing law requires any health facility that maintains and operates an emergency department to provide emergency services to the public, to provide emergency services and care to any person requesting the services, and to any person for whom services and care is requested.

Existing law provides for the Medi-Cal program, administered by the department, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

This bill would prohibit the department from issuing a license to operate a "boutique hospital," as defined, ~~that limits its admissions or services, as specified,~~ unless that boutique hospital agrees to continuously maintain and operate an emergency department; ~~participate in the Medi-Cal program, and provide services and care to~~

~~nonpaying and low-reimbursed patients, as prescribed that provides either basic or comprehensive services.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) General acute care hospitals throughout California operate
4 emergency departments and provide vital emergency medical
5 services to patients requiring immediate medical care.

6 (b) Federal and state laws require hospitals that operate an
7 emergency department to provide certain emergency services and
8 care to any person, regardless of that person's ability to pay.
9 Accordingly, these hospitals encounter significant financial losses
10 when treating uninsured or underinsured patients.

11 (c) In the 1998–99 fiscal year, hospitals operating emergency
12 departments lost three hundred sixteen million five hundred
13 seventy-six thousand dollars (\$316,576,000) in treating patients
14 requiring emergency medical care.

15 (d) In 2001, over 66 percent of California hospitals lost money
16 on operations, according to data compiled by the Office of
17 Statewide Health Planning and Development.

18 (e) California hospitals that provide emergency room services
19 to their communities are only able to do so because other
20 departments of the hospital, such as cardiac surgery, orthopedics,
21 and other surgery programs, operate at a financial gain, offsetting
22 the significant losses incurred by the emergency departments.

23 (f) The ability of a hospital to continue to provide emergency
24 services to California's insured and uninsured patients is
25 threatened by so-called "~~boutique hospitals~~—*hospitals*." These
26 are hospitals that offer only services that are profitable, such as
27 open-heart surgery and orthopedic surgery, and do not offer
28 services that operate at a loss, such as emergency services.

29 (g) If hospitals that operate emergency departments lose
30 patients to "~~boutique hospitals~~—*hospitals*," emergency
31 departments will cease to be financially viable, and will have to
32 close, with disastrous results for the public's health.



(h) It is therefore necessary to enact this act to protect public health and ensure that hospitals throughout California can continue to provide emergency medical services to injured and ill patients.

SEC. 2. Section 1252.5 is added to the Health and Safety Code, to read:

1252.5. (a) (1) For purposes of this section, “boutique hospital” means either of the following:

~~(A) A hospital that limits admissions according to medical or surgical specialty, type of disease, or medical condition.~~

~~(B) A hospital that limits its inpatient hospital services to surgical services or invasive diagnostic and treatment procedures.~~
hospital” is a hospital that does not continuously maintain and operate an emergency department that provides either basic or comprehensive emergency medical services, as referred to in Article 5 (commencing with Section 70351) of Chapter 1 of Division 5 of Title 22 of the California Code of Regulations, and where either of the following conditions exists:

(A) Two-thirds or more of inpatient discharges are classified in one or two major diagnosis categories.

(B) Two-thirds or more of inpatient discharges are for surgical diagnosis-related groups as those groups are defined by the federal Centers for Medicare and Medicaid Services.

(2) For purposes of this section, the following are not boutique hospitals:

(A) A special hospital, as defined in subdivision (f) of Section 1250.

(B) *A hospital specializing in pediatrics, an acute psychiatric hospital, as defined in subdivision (b) of Section 1250, or a hospital specializing in physical rehabilitation.*

(C) An eleemosynary hospital that does not bill patients for services provided.

~~(C)~~

(D) A hospital that has been granted a license on or before January 1, 2004.

~~(D)~~

(E) *A hospital that was under construction or had submitted working drawings to the Office of Statewide Health Planning and Development on or before April 1, 2003.*

1 (F) A hospital that is issued a new license in order to be rebuilt
2 to meet state seismic safety standards if the hospital that is being
3 rebuilt has an emergency department and the new rebuilt hospital
4 will also have an emergency department of the same license
5 category *or greater*.

6 (b) The department may not issue a license for a boutique
7 hospital unless the applicant hospital agrees to ~~do all of the~~
8 ~~following~~.

9 ~~(1) Continuously~~ *continuously* maintain and operate an
10 emergency department that provides either basic or
11 comprehensive emergency medical services, as referred to in
12 Article 5 (commencing with Section 70351) of Chapter 1 of
13 Division 5 of Title 22 of the California Code of Regulations. For
14 purposes of this paragraph, continuously means that the
15 emergency department is available 24-hours a day, seven days a
16 week.

17 ~~(2) Participate in the Medi-Cal program. For purposes of this~~
18 ~~paragraph, “participate in the Medi-Cal program” means that the~~
19 ~~applicant hospital has, at the time of application, a contract with~~
20 ~~the California Medical Assistance Commission for Medi-Cal~~
21 ~~inpatient services, or is engaging in good faith efforts to obtain~~
22 ~~such a contract. This requirement shall not apply to any hospital~~
23 ~~that is located in a noncontracting area, as defined by the~~
24 ~~commission.~~

25 ~~(3) Provide services and care to nonpaying patients and~~
26 ~~low-reimbursed patients in the same proportion, as determined by~~
27 ~~the department, as these patients are treated in nearby full-service~~
28 ~~hospitals with emergency departments that provide basic or~~
29 ~~comprehensive emergency medical services. The department may~~
30 ~~grant an applicant hospital or a boutique hospital flexibility in~~
31 ~~meeting the requirements of this paragraph if the hospital can~~
32 ~~demonstrate that it is making a good faith effort to meet the~~
33 ~~requirements.~~ *week, except when on periodic diversion.*

34 (c) If a boutique hospital that has been granted a license
35 pursuant to subdivision (b) subsequently fails to meet any one of
36 the requirements specified in subdivision (b), the department shall
37 suspend the license of that boutique hospital until the requirement
38 is met.

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